

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

WILLIE COX, JR., a/k/a ABBUE-JAH,

Plaintiff,

v.

THE HONORABLE JASON DODSON,

Defendant.

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No. 4:19-CV-2748 AGF

**MEMORANDUM AND ORDER**

This matter is before the Court upon the motion of plaintiff Willie Cox, Jr. for leave to proceed in forma pauperis in this civil action. Upon consideration of the motion and the financial information provided in support, the Court concludes that plaintiff is unable to pay the filing fee. The motion will therefore be granted. Additionally, the Court will dismiss the complaint, without prejudice.

**Legal Standard on Initial Review**

Under 28 U.S.C. § 1915(e)(2), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief may be granted. An action is frivolous if it “lacks an arguable basis in either law or fact.” *Neitzke v. Williams*, 490 U.S. 319, 328 (1989). An action fails to state a claim upon which relief may be granted if it does not plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Determining whether a complaint states a plausible claim for relief is a context-specific task that requires the reviewing court to draw upon judicial

experience and common sense. *Id.* at 679. The court must assume the veracity of well-pleaded facts, but need not accept as true “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements.” *Id.* at 678 (citing *Twombly*, 550 U.S. at 555).

This Court must liberally construe complaints filed by laypeople. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). This means that “if the essence of an allegation is discernible,” the court should “construe the complaint in a way that permits the layperson’s claim to be considered within the proper legal framework.” *Solomon v. Petray*, 795 F.3d 777, 787 (8th Cir. 2015) (quoting *Stone v. Harry*, 364 F.3d 912, 914 (8th Cir. 2004)). However, even pro se complaints must allege facts which, if true, state a claim for relief as a matter of law. *Martin v. Aubuchon*, 623 F.2d 1282, 1286 (8th Cir. 1980). Federal courts are not required to assume facts that are not alleged, *Stone*, 364 F.3d at 914-15, nor are they required to interpret procedural rules so as to excuse mistakes by those who proceed without counsel. *See McNeil v. United States*, 508 U.S. 106, 113 (1993).

### **The Complaint<sup>1</sup>**

Plaintiff states he brings this action pursuant to 42 U.S.C. § 1983 against the Honorable Jason David Dodson, a Circuit Court Judge in St. Louis County. Plaintiff asserts that Judge Dodson acted unlawfully in denying him a right to a jury trial in an action he was defending

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<sup>1</sup>Since September 17, 2019, plaintiff has filed fifteen similar actions in this Court, including this one. *See Cox v. Lang*, 4:19-cv-02585-NAB (E.D. Mo. Sept. 17, 2019), *Cox v. Hulsey*, 4:19-cv-02586-JAR (E.D. Mo. Sept. 17, 2019), *Cox v. Hartman*, No. 4:19-cv-2587 (E.D. Mo. Sept. 17, 2019), *Cox v. Anello*, 4:19-cv-02588-AGF (E.D. Mo. Sept. 17, 2019), *Cox v. Walz*, 4:19-cv-02589-SRC (E.D. Mo. Sept. 17, 2019), *Cox v. Hulsey*, 4:19-cv-02592-SRC (E.D. Mo. Sept. 17, 2019), *Cox v. Morrow*, 4:19-cv-02593-JAR (E.D. Mo. Sept. 17, 2019), *Cox v. Grammer*, 4:19-cv-02662-PLC (E.D. Mo. Sept. 30, 2019), *Cox v. Crotzer*, 4:19-cv-02727-RLW (E.D. Mo. Oct. 7, 2019), *Cox v. Dewly*, 4:19-cv-02744-JAR (E.D. Mo. Oct. 9, 2019), *Cox v. Dodson*, 4:19-cv-02748-AGF (E.D. Mo. Oct. 9, 2019), *Cox v. Walker*, 4:19-cv-02764-RLW (E.D. Mo. Oct. 10, 2019), *Cox v. City of University City, Missouri*, 4:19-cv-02923-JCH (E.D. Mo. Oct. 28, 2019), *Cox v. Brentwood, Missouri, City of*, 4:19-cv-03067-PLC (E.D. Mo. Nov. 7, 2019), and *Cox v. City of Clayton*, 4:19-cv-03091-RLW (E.D. Mo. Nov. 12, 2019).

regarding a traffic stop.<sup>2</sup> In that case, plaintiff was charged with violations of Sections 360.010 to 360.070 regarding automobile lights. Although the penalty for a violation of the ordinances included a fine up to a \$1,000 or jail up to or including 90 days, the prosecutor in that case, Darold Crotzer, filed a memorandum indicating that he would not be seeking jail time or confinement if plaintiff was found guilty of the charges. Thus, the City of Clayton moved for a finding from the Court, on June 6, 2019, that plaintiff was not entitled to a jury trial in the case.

Plaintiff filed an objection to the motion to deny the jury trial on June 28, 2019. In his complaint, plaintiff asserts that Judge Dodson granted the City of Clayton's motion for a bench trial. However, there is no such indication on the docket, as reflected on Missouri Case.Net. Rather, as plaintiff has admitted in his complaint, the Court dismissed the action, with prejudice on August 9, 2019.

Plaintiff alleges in his complaint that he was subjected to malicious prosecution and a violation of his Sixth Amendment rights. He further purports that Judge Dodson did not have "probable cause" to deny him a jury trial in his case. Plaintiff seeks a total of \$1 million in damages.

### **Discussion**

Judicial immunity grants absolute immunity to judges from civil lawsuits based on alleged judicial misconduct, subject to two exceptions: (1) when a judge does not act within his judicial capacity or (2) when a judge takes judicial action in the complete absence of all jurisdiction. *Mireles v. Waco*, 502 U.S. 9, 11-12 (1991). "[W]hether an act by a judge is a

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<sup>2</sup> In documents attached to plaintiff's complaint, he refers to his state court case, *City of Clayton v. Cox*, No.19SL-MU00154 (21<sup>st</sup> Judicial Circuit, St. Louis County Court). Plaintiff's underlying state court case was reviewed on Case.net, Missouri's online case management system. The Court takes judicial notice of these state public records. *See Levy v. Ohl*, 477 F.3d 988, 991 (8th Cir. 2007) (explaining that district court may take judicial notice of public state records); and *Stutzka v. McCarville*, 420 F.3d 757, 760 n.2 (8th Cir. 2005) (stating that courts "may take judicial notice of judicial opinions and public records").

‘judicial’ one relate[s] to the nature of the act itself, i.e., whether it is a function normally performed by a judge, and to the expectations of the parties, i.e., whether they dealt with the judge in his judicial capacity.” *Id.* at 12. All of Judge Dodson’s purportedly unlawful actions were judicial in nature – presiding over the City of Clayton’s request to deny plaintiff a jury trial in a misdemeanor action (and according to plaintiff granting the motion), as well as dismissing the action filed against him. Further, Judge Dodson, acting as Circuit Judge in the 21st Circuit Court in St. Louis County, took judicial action pursuant to that court’s jurisdiction granted to it by the Missouri Constitution. *See* Mo. Const. art V, § 17.

Judicial immunity applies “even when the judge is accused of acting maliciously.” *Pierson v. Ray*, 386 U.S. 547, 554 (1967). Because Judge Dodson acted within his judicial capacity and within his court’s proper jurisdiction, he is granted absolute immunity from civil suit as to plaintiff’s claims against him. As such, plaintiff’s claims against Judge Dodson are frivolous.

After carefully reading and liberally construing the complaint, the Court concludes that this case should be dismissed at this time pursuant to 28 U.S.C. § 1915(e)(2)(B). Plaintiff obviously prepared the complaint in a careful and thoughtful manner, and he is clear about the claim he wishes to assert against Judge Dodson. It is therefore apparent that the problems with the complaint would not be cured by permitting plaintiff to file an amended pleading.

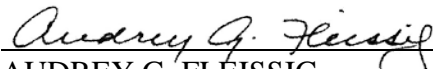
Accordingly,

**IT IS HEREBY ORDERED** that plaintiff’s motion for leave to proceed in forma pauperis (ECF No. 2) is **GRANTED**.

**IT IS FURTHER ORDERED** that this case is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

**IT IS HEREBY CERTIFIED** that an appeal from this dismissal would not be taken in good faith.

Dated this 18th day of November, 2019.

  
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AUDREY G. FLEISSIG  
UNITED STATES DISTRICT JUDGE